

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 257 be amended to read as follows:

- 1 Page 255, between lines 41 and 42, begin a new paragraph and
- 2 insert:
- 3 "SECTION 20. IC 5-2-5-16 IS ADDED TO THE INDIANA CODE
- 4 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 5 1, 2003]: **Sec. 16. (a) This section does not apply to the following**
- 6 **persons:**
- 7 (1) An offender (as defined in IC 5-2-12-4) subject to sex
- 8 offender registration.
- 9 (2) A person convicted of murder.
- 10 (3) A person who is in a penal facility ten (10) years after the
- 11 person was last adjudicated a delinquent child.
- 12 (4) A person who has a juvenile adjudication or a conviction
- 13 for arson.
- 14 (5) A person who has a juvenile adjudication or a conviction
- 15 for cruelty to an animal.
- 16 (6) A person convicted of a dealing offense under IC 35-48-4
- 17 if the person has a prior, unrelated juvenile adjudication or
- 18 conviction for a dealing offense under IC 35-48-4.
- 19 (b) Subject to this section, if:
- 20 (1) the department, a criminal justice agency, or a juvenile
- 21 justice agency possesses criminal history information relating
- 22 to an act that a person committed or allegedly committed
- 23 before the person became eighteen (18) years of age;
- 24 (2) the:

1 (A) department; or  
 2 (B) criminal justice agency, after checking with the  
 3 department;  
 4 does not find that the person was arrested for a felony that the  
 5 person committed after the person became eighteen (18) years  
 6 of age; and  
 7 (3) the person has not been convicted of a felony during the  
 8 ten (10) years since the person was last convicted of an offense  
 9 (if the person was waived from juvenile court under  
 10 IC 31-30-3) or adjudicated a delinquent child;  
 11 the department, criminal justice agency, or juvenile justice agency  
 12 shall, if the person satisfies the requirements under subsection (c),  
 13 seal the person's criminal history data ten (10) years after the  
 14 person was last convicted of an offense (if the person was waived  
 15 from juvenile court under IC 31-30-3) or adjudicated a delinquent  
 16 child.  
 17 (c) A person who seeks the sealing of criminal history  
 18 information under this section must file a petition with the  
 19 department, criminal justice agency, and juvenile justice agency:  
 20 (1) establishing that the person satisfies the requirements of  
 21 subsection (b); and  
 22 (2) requesting the sealing of the criminal history information.  
 23 The criminal history information must be sealed if the department,  
 24 criminal justice agency, and juvenile justice agency determine that  
 25 the petitioner has satisfied the requirements under subsection (b).  
 26 (d) Except as provided under subsection (d), the department,  
 27 criminal justice agency, or juvenile justice agency may not release  
 28 sealed criminal history data to, or allow inspection of sealed  
 29 criminal history data by, any agency or person other than the  
 30 person who is the subject of the criminal history data.  
 31 (e) A court may order the release or inspection of sealed  
 32 criminal history data only if:  
 33 (1) the person who is the subject of the sealed criminal history  
 34 data challenges its existence during a court proceeding; or  
 35 (2) the person who is the subject of the sealed criminal history  
 36 is arrested in the United States or in another country for an  
 37 act that:  
 38 (A) the person committed after the person became eighteen  
 39 (18) years of age; and  
 40 (B) is a felony in Indiana or the equivalent of a felony in  
 41 Indiana.  
 42 Criminal history data ordered released under subdivision (1) is  
 43 unsealed only to the extent reasonably necessary to refute the claim  
 44 under subdivision (1) that the sealed criminal history data does not  
 45 exist. Criminal history data ordered released under subdivision (2)  
 46 may be released or inspected as if the criminal history data had  
 47 never been sealed."

Page 276, between lines 9 and 10, begin a new paragraph and insert:  
 "SECTION 59. IC 20-6.1-3-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 12. (a) This section applies to an examination that is required for teacher licensure under this chapter.**

**(b) If an individual does not demonstrate the level of proficiency required to receive a license on all or part of an examination, the examination's scorer must provide the individual's test scores, including subscores for each area tested."**

Page 298, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 94. IC 35-38-4-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 7. (a) This section does not apply to the following:**

**(1) An offender (as defined in IC 5-2-12-4) subject to sex offender registration.**

**(2) A person convicted of murder.**

**(3) A person who is in a penal facility ten (10) years after the person was last adjudicated a delinquent child.**

**(4) A person who has a juvenile adjudication or a conviction for arson.**

**(5) A person who has a juvenile adjudication or a conviction for cruelty to an animal.**

**(6) A person convicted of a dealing offense under IC 35-48-4 if the person has a prior, unrelated juvenile adjudication or conviction for a dealing offense under IC 35-48-4.**

**(b) Subject to this section, if a court:**

**(1) possesses criminal history data (as defined in IC 5-2-5-1) or other records relating to a criminal act that a person committed or allegedly committed before the person became eighteen (18) years of age;**

**(2) after checking with the state police department, does not find that the person was arrested for a felony that the person committed or allegedly committed after the person became eighteen (18) years of age; and**

**(3) finds that the person has not been convicted of a felony during the ten (10) years since the person was last convicted of an offense (if the person was waived from juvenile court under IC 31-30-3) or adjudicated a delinquent child;**

**the court shall, if the person satisfies the requirements under subsection (c), seal the person's criminal history data (as defined in IC 5-2-5-1) or other related court records ten (10) years after the person was last convicted of an offense (if the person was waived from juvenile court under IC 31-30-3) or adjudicated a delinquent child.**

**(c) A person who seeks the sealing of criminal history**

information under this section must file a petition with the court:

(1) establishing that the person satisfies the requirements of subsection (b); and

(2) requesting the sealing of the criminal history information.

The criminal history information must be sealed if the court determines that the petitioner has satisfied the requirements under subsection (b).

(d) Except as provided in subsection (d), the court may not release sealed criminal history data (as defined in IC 5-2-5-1) or related court records to, or allow inspection of sealed criminal history data (as defined in IC 5-2-5-1) or related court records by, any agency or person other than the person who is the subject of the criminal history data (as defined in IC 5-2-5-1) or related court records.

(e) A court may order the release or inspection of sealed criminal history data (as defined in IC 5-2-5-1) or related court records only if:

(1) the person who is the subject of the sealed criminal history data challenges its existence during a court proceeding; or

(2) the person who is the subject of the sealed criminal history is arrested in the United States or in another country for an act that:

(A) the person committed after the person became eighteen (18) years of age; and

(B) is a felony in Indiana or the equivalent of a felony in Indiana.

Criminal history data ordered released under subdivision (1) is unsealed only to the extent reasonably necessary to refute the claim under subdivision (1) that the sealed criminal history data does not exist. Criminal history data ordered released under subdivision (2) may be released or inspected as if the criminal history data had never been sealed."

Page 303, after line 27, begin a new paragraph and insert:

"SECTION 106. [EFFECTIVE JULY 1, 2003] IC 5-2-5-16 and IC 35-38-4-7, both as added by this act, apply only to a person who:

(1) was last convicted of an offense (if the person was waived from juvenile court under IC 31-30-3) or adjudicated a delinquent child after June 30, 1993; or

(2) was last convicted of an offense (if the person was waived from juvenile court under IC 31-30-3) or adjudicated a delinquent child before July 1, 1993, and petitions a court, the state police department, a juvenile justice agency, or a criminal justice agency that possesses criminal justice information to seal the person's criminal history information after June 30, 2003."

Renumber all SECTIONS consecutively.

(Reference is to ESB 257 as printed March 25, 2003.)

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Representative Smith V